

## **SUMMARY OF PROPOSED COMMITTEE DRAFT:**

### **Resolution 17-308**

#### **INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (2017 EDITION), RELATING TO THE HONOLULU POLICE COMMISSION.**

#### **PROPOSED CD1 makes the following amendments:**

- A. Revises the title of the resolution to read as follows:

"INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (2017 EDITION), RELATING TO THE HONOLULU POLICE COMMISSION AND POLICE CHIEF."

- B. Removes the requirement added in the introduced version of the resolution that one member of the Commission must have held the rank of Captain or above in the Honolulu Police Department and is now retired.

- C. Deletes the 8th WHEREAS clause and replaces it with the following two WHEREAS clauses:

"WHEREAS, the Council further believes that streamlining the appointment of the Police Chief by authorizing the Mayor, instead of the Commission, to appoint, subject to the advice and consent of the Council, and to remove the Police Chief is in the best interest of the public because it would facilitate a more expeditious appointment and removal of a Police Chief, foster leadership continuity, and potentially avert issues and delays such as those recently faced by the Police Commission in appointing a new Honolulu Police Chief; and

"WHEREAS, appointment of the Police Chief by the Mayor will better ensure a good working relationship between the Honolulu Police Department and the other departments and agencies of the City; and"

- D. Revises the Charter amendment question to be placed on the 2018 general election ballot in Section 1 of the BE IT FURTHER RESOLVED clause to read as follows:

"Shall the Revised City Charter be amended to:

1. Change the composition of the Honolulu Police Commission to be as follows:

- A. Three members that are appointed by the Mayor; and

- B. Four members that are appointed by the Council; and
- 2. Allow the Honolulu Police Chief to be appointed, subject to the advice and consent of the Honolulu City Council, and subject to removal by the Mayor instead of the Honolulu Police Commission?"
- E. Revises the remaining sections of the BE IT FURTHER RESOLVED clause that effectuate the revised Charter amendment question as follows:
  - 1. In Section 2, amends Charter Section 4-104 to include the Police Chief in the list of department and executive agency heads that are appointed by the Mayor, subject to the advice and consent of the Council, and subject to removal by the Mayor;
  - 2. In Section 3, amends Charter Section 6-1603 to specify that the Police Chief shall be appointed and may be removed by the Mayor rather than serve at the pleasure of the Police Commission;
  - 3. In Section 4, further amends Charter Section 6-1605 to specify that the Police Commission consist of three members appointed by the Mayor and four members appointed by the Council;
  - 4. In Section 5, amends Charter Section 16-121 to add transition provisions for the Police Chief holding office on December 31, 2018;
  - 5. In Section 6, further amends the new Charter Section in Article XVI relating to Police Commission transition provisions to be in accord with the new proposed composition of the Police Commission (three members appointed by the Mayor, and four members appointed by the Council); and
  - 6. Renumbers remaining Sections accordingly.
- F. Makes miscellaneous technical, conforming, and nonsubstantive amendments.



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INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (2017 EDITION), RELATING TO THE HONOLULU POLICE COMMISSION AND POLICE CHIEF.

WHEREAS, Section 6-1605 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) ("Charter"), establishes a seven-member Police Commission ("Commission") of the City and County of Honolulu ("City"); and

WHEREAS, in accordance with Charter Section 13-103.1(b), all members of the Commission are appointed by the Mayor and confirmed by the Council; and

WHEREAS, Charter Section 6-1603.1 authorizes the Commission to appoint the Honolulu Chief of Police ("Police Chief") to serve at the pleasure of the Commission for a term of five years; provided that the Commission may remove or suspend the Police Chief at any time prior to the expiration of the five-year term; and

WHEREAS, Charter Section 6-1603.2 provides that prior to the expiration of a term to which the Police Chief is appointed, the Police Chief may be removed or suspended by the Commission for any reason; and

WHEREAS, Charter Section 6-1606 sets forth the powers, duties, and functions of the Commission; and

WHEREAS, the Council believes that a reorganization of the composition of the Commission that includes some Council appointees and some Mayoral appointees is in the best interest of the public because it will provide the Commission with a broader perspective in carrying out the Commission's Charter-prescribed duties and functions; and

WHEREAS, the Council also believes that having Council appointees on the Commission will better ensure that responses to inquiries from Councilmembers to the Commission are adequately addressed in a timely manner; and

WHEREAS, the Council further believes that streamlining the appointment of the Police Chief by authorizing the Mayor, instead of the Commission, to appoint, subject to the advice and consent of the Council, and to remove the Police Chief is in the best interest of the public because it would facilitate a more expeditious appointment and removal of a Police Chief, foster leadership continuity, and potentially avert issues and delays such as those recently faced by the Police Commission in appointing a new Honolulu Police Chief; and



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WHEREAS, appointment of the Police Chief by the Mayor will better ensure a good working relationship between the Honolulu Police Department and the other departments and agencies of the City; and

WHEREAS, pursuant to Charter Section 15-102, the Mayor's approval is required for any Charter amendment proposed by the Council at a general election (such as the 2018 general election) immediately following a general election at which a Charter Commission has submitted or could have submitted its own proposals; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That the following question be placed on the 2018 general election ballot:

"Shall the Revised City Charter be amended to:

1. Change the composition of the Honolulu Police Commission to be as follows:
  - A. Three members that are appointed by the Mayor; and
  - B. Four members that are appointed by the Council; and
2. Allow the Honolulu Police Chief to be appointed, subject to the advice and consent of the Honolulu City Council, and subject to removal by the Mayor instead of the Honolulu Police Commission?"

2. That Section 4-104 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) be amended to read as follows:

**"Section 4-104. Appointment, Confirmation and Removal of Officers and Employees –**

1. All department and executive agency heads and the managing director, as provided in Sections 5-201, 6-101, 6-105, 6-201, 6-301, 6-401, 6-501, 6-601, 6-701, 6-801, 6-901, 6-1101, 6-1201, 6-1301, 6-1401, 6-1501, 6-1603, 6-1701, and 6-1801 shall be nominated and, by and with the advice and consent of the council, appointed and may be removed by the mayor, except as otherwise provided by this charter. Department heads shall be duly registered voters of the city and qualifications of department heads shall be as required by this charter.



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2. When the position of head of an executive agency becomes vacant and the mayor is the appointing authority, the mayor may temporarily fill the vacancy by granting a commission allowing the nominee to fulfill the responsibilities of the position. The commission shall begin when the mayor submits to the council a request for confirmation. The commission shall expire when the council makes the confirmation decision. If the nominee fails to be confirmed by the council, the nominee shall not be eligible for another interim appointment to the same office.

3. Department heads may appoint the necessary staff for which appropriations have been made by the council.

4. No appointing authority shall appoint any person to any office or position exempted from civil service until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of the person's office or position."

3. That Section 6-1603 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) be amended to read as follows:

### "Section 6-1603. Chief of Police –

[4.] The chief of police shall be appointed by and may be removed by the ~~[police commission for a term of five years. The chief shall serve at the pleasure of the police commission and shall not attain any property interest in the position of chief of police. The police commission may remove or suspend the chief of police at any time prior to the expiration of the five year appointment.]~~ mayor. The chief shall have had a minimum of five years of training and experience in law enforcement work, at least three years of which shall have been in a responsible administrative capacity. ~~[The chief shall not serve beyond the expiration of a term unless appointed again by the police commission. If desiring to do so, the police commission may appoint an incumbent chief to a new term without first engaging in an applicant solicitation and selection process.~~

2. ~~Before the expiration of a term to which appointed, the chief may be removed or suspended by the police commission for any reason. Such reasons may include but are not limited to:~~

- (a) ~~The chief has committed any act, while engaged in the performance of his or her duties, that constitutes a reckless~~



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~~disregard for the safety of the public or another law enforcement officer;~~

- ~~(b) The chief has caused a material fact to be misrepresented for any improper or unlawful purpose;~~
- ~~(c) The chief is unable to perform his or her duties with reasonable competence or reasonable safety because of a mental condition, including alcohol or substance abuse.~~
- ~~(d) The chief has acted in a manner for of furthering his or her self-interest or in a manner inconsistent with the interest of the public or the chief's governing body.~~

~~As prerequisites to removal or suspension, the chief shall be given a written statement of the reasons for removal or suspension and an opportunity for a hearing before the police commission."~~

4. That Section 6-1605 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) be amended to read as follows:

**"Section 6-1605. Police Commission –**

1. There shall be a police commission, which shall consist of seven appointed members[.] as follows:

- (a) Three members appointed by the mayor; and
- (b) Four members appointed by the council.

2. The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties.

3. The commission shall be governed by [the provisions of] Section 13-103 [of this charter.]; provided that Section 13-103.1(b) and (e) shall not apply to the commission."

5. That Section 16-121 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) be amended to read as follows:



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### "Section 16-121. Transition Provisions Concerning the ~~[Term of the]~~ Chief of Police –

The chief of police holding office on December 31, ~~[1998]~~ 2018 shall continue to serve [for a term expiring on December 31, 2003 unless, at an earlier date:] for the remainder of the chief's term, notwithstanding the 2018 amendments made to Section 6-1603, unless:

- (a) The ~~[police commission]~~ the mayor removes the chief of police pursuant to Section 6-1603 ~~[of this charter]~~; or
- (b) The chief of police otherwise vacates the office.

Upon the office becoming vacant, it shall be filled in accordance with Section 6-1603 ~~[of this charter]."~~

6. That Article XVI of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) is amended by adding a new section to be appropriately designated by the Revisor of the Charter and to read as follows:

### "Section 16- . Police Commission Transition Provisions –

1. For the purpose of this section:

"Compliance with this Charter amendment" means having on the police commission at least:

- (a) Three members appointed by the mayor; and
- (b) Four members appointed by the council.

"Council appointees" means members of the police commission who are appointed by the council.

"Effective date" means the effective date of this Charter amendment.

"Mayoral appointees" means members of the police commission who are appointed by the mayor without confirmation by the council.

2. The 2018 amendments made to Section 6-1605 shall not affect the term of any member of the police commission who is serving on the effective



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date. Unless vacating office sooner, each such member shall continue in service on the commission until the expiration of the member's term.

3. The mayor and council shall alternate appointing members to the commission as vacancies become available until such time that the numbers of mayoral and council appointees are in compliance with this Charter amendment. The first vacancy shall be filled by a \_\_\_\_\_ appointment. If any commission appointee vacates the office, the vacancy shall be filled in the same manner as that of the vacating appointee."

7. That in Sections 2 to 6, Charter material to be repealed is bracketed and stricken and new Charter material is underscored. When revising, compiling, or printing these Charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973, the Revisor of the Charter need not include the brackets, the material that has been bracketed and stricken, or the underscoring.
8. That if these Charter provisions are amended by any other Charter amendment approved by the electors in the 2018 general election, the Revisor of the Charter, in revising, compiling, or printing the Charter:
  - a. May designate or redesignate articles, chapters, sections, or parts of sections, and rearrange references thereto; and
  - b. Shall, except as otherwise expressly provided in this resolution or in the other resolution(s) amending these Charter provisions, give effect, to the extent possible, to all of the amendments approved.

The Revisor of the Charter may also change capitalization or the forms of numbers and monetary sums for the sake of uniformity.

9. That upon adoption of this resolution by the Council and approval by the Mayor, the City Clerk be and is hereby directed:
  - a. To prepare the necessary ballots with the question contained in this resolution and with spaces for "yes" and "no" votes on the question for presentation to the electors at the 2018 general election. The City Clerk may make technical and nonsubstantive changes to the form of the question presented in order to conform it to the form of other Charter amendment questions presented to the electors at the same election; and





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- b. To publish the above-proposed Charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to their submission to the electors at the 2018 general election.



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10. That upon approval of the Charter amendment question posed in this resolution by a majority of the electors voting thereon, as duly certified, the Charter amendments proposed in this resolution shall take effect on January 1, 2019.

INTRODUCED BY:

Ikaika Anderson

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DATE OF INTRODUCTION:

October 27, 2017

Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
KIRK CALDWELL, Mayor  
City and County of Honolulu